

(Stipulating Parties Listed on Signature Pages)

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**Master Case No. 3:07-cv-5944-SC
MDL No. 1917**

**In re CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION**

**STIPULATION AND [PROPOSED]
ORDER REGARDING DEFENDANTS'
MOTION TO DISMISS THE SHARP
COMPLAINT**

This Document Relates to:

Sharp Elecs. Corp. v. Hitachi Ltd.
Case No. 3:13-cv-1173-SC

*Sharp Elecs. Corp. v. Koninklijke Philips
Elecs. N.V.*
Case No. 3:13-cv-2776-SC

1 Pursuant to Civil Local Rules 6-2 and 7-12, the undersigned Defendants and
2 Plaintiffs Sharp Electronics Corporation and Sharp Electronics Manufacturing Company of
3 America, Inc. (collectively, "Sharp" or the "Stipulating Plaintiffs") have conferred by and through
4 their counsel and, subject to the Court's approval, HEREBY STIPULATE AS FOLLOWS:

5 WHEREAS, there is pending in the United States District Court for the Northern
6 District of California a multidistrict consolidated proceeding comprised of actions brought on
7 behalf of purported purchasers of cathode ray tubes ("CRT") and CRT finished products, captioned
8 as In re: Cathode Ray Tube (CRT) Antitrust Litigation, Case No. 3:07-cv-05944 SC (MDL No.
9 1917) (the "MDL Proceedings");

10 WHEREAS, on March 15, 2013, Sharp filed a Summons and Complaint in the
11 Northern District of California, Sharp Electronics Corp., et al. v. Hitachi, Ltd., et. al., Case No. 13-
12 cv-1173 (the "Sharp Action");

13 WHEREAS, on March 26, 2013, this Court entered an Order finding that Sharp
14 Electronics Corp., et al. v. Hitachi, Ltd., et al. is related to the MDL Proceedings (MDL Dkt. No.
15 1608);

16 WHEREAS, on April 23, 2013, Sharp filed a Stipulation and Proposed Order
17 Regarding the Complaint in the Sharp Action (MDL Dkt. 1649) requesting the Court to enter an
18 order authorizing the Defendants and Sharp, once the Court has ruled on the Defendants' motions to
19 dismiss and for judgment on the pleadings with respect to certain Direct Action Plaintiff complaints
20 (MDL Dkt. Nos. 1316, 1317, 1319), to set a reasonable deadline for Defendants' answers and/or a
21 reasonable briefing schedule for Defendants' motions to dismiss Sharp's Complaint;

22 WHEREAS, on April 24, 2013, the Court entered an Order pursuant to the
23 Stipulation Regarding the Complaint in the Sharp Action (MDL Dkt. No. 1652);

24 WHEREAS, on May 17, 2013, Thomson Consumer Electronics, Inc. ("Thomson")
25 filed a Notice of Motion and Motion to Dismiss Sharp's claims in the Sharp Action (MDL Dkt. No.
26 1677);

1 WHEREAS, on September 26, 2013, the Court entered an Order granting
2 Thomson's Motion to Dismiss and granting Sharp thirty (30) days from the date of this Order to file
3 an amended complaint (MDL Dkt. 1960);

4 WHEREAS, on October 1, 2013, undersigned Defendants filed a Stipulation and
5 Proposed Order Setting Schedule for Defendants to Answer or Otherwise Respond to the Dell
6 Amended Complaint, Sharp Complaint, and Tech Data Amended Complaint (MDL Dkt. 1969), to
7 set deadlines for Defendants' answers and/or motions to dismiss Sharp's Complaint;

8 WHEREAS, on October 1, 2013, the Court entered an Order pursuant to the
9 Stipulation and Proposed Order Setting Schedule for Defendants to Answer or Otherwise Respond
10 to the Dell Amended Complaint, Sharp Complaint, and Tech Data Amended Complaint (MDL Dkt.
11 1971);

12 WHEREAS, on October 7, 2013, pursuant to the stipulated deadline, the Defendants
13 filed a Joint Notice of Motion and Motion to Dismiss certain of Sharp's state law claims (MDL Dkt.
14 No. 1992) ("Defendants' Joint Motion to Dismiss");

15 WHEREAS, on October 7, 2013, pursuant to the stipulated deadline, Defendants
16 Toshiba Corporation; Toshiba America, Inc.; Toshiba America Electronic Components, Inc.; and
17 Toshiba America Information Systems, Inc. (collectively, "Toshiba Defendants") filed a Notice of
18 Motion and Motion to Dismiss Sharp's federal and state law claims (MDL Dkt. No. 2000)
19 ("Toshiba Defendants' Motion to Dismiss");

20 WHEREAS, on October 28, 2013, Sharp filed a First Amended Complaint and
21 Demand for Jury Trial (Attachment 4, filed under seal, to MDL Dkt. No. 2030) (the "Sharp First
22 Amended Complaint");

23 WHEREAS, on November 6, 2013, Sharp filed an Opposition to Defendants' Joint
24 Motion to Dismiss (MDL Dkt. 2194) and an Opposition to Toshiba Defendants' Motion to Dismiss
25 (MDL Dkt. 2195);

26 WHEREAS, on November 20, 2013, Defendants filed a joint Reply in support of
27 Defendants' Joint Motion to Dismiss (MDL Dkt. 2231) and Toshiba Defendants filed a Reply in
28 support of Toshiba Defendants' Motion to Dismiss (MDL Dkt. 2229);

1 WHEREAS, the Stipulating Plaintiffs and the Defendants seek to resolve the
2 Defendants' arguments in a manner that conserves the resources of the Court and avoids repetitive
3 briefing on the same issues;

4 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED between
5 counsel for the Stipulating Plaintiffs and counsel for the undersigned Defendants in the above-
6 captioned actions, as follows:

- 7 1. The Stipulating Plaintiffs and Defendants agree that Defendants' Joint Motion to
8 Dismiss (MDL Dkt. No. 1992) and Toshiba Defendants' Motion to Dismiss (MDL
9 Dkt. No. 2000) shall be deemed to apply to the Sharp First Amended Complaint;
- 10 2. The undersigned Defendants do not need to otherwise respond to the Sharp First
11 Amended Complaint;
- 12 3. In the event that the Court grants either motion to dismiss with leave to amend, the
13 undersigned Defendants will not argue that, because Sharp filed its First Amended
14 Complaint, it should be prohibited from filing a Second Amended Complaint
15 consistent with the Court's order. Additionally, at oral argument on Defendants'
16 Joint Motion to Dismiss and Toshiba Defendants' Motion to Dismiss, the
17 undersigned Defendants will not argue that Sharp's First Amended Complaint
18 should be dismissed with prejudice for the reason that Sharp has already been
19 given one opportunity to file an amended complaint and correct pleading
20 deficiencies; Sharp agrees that this limitation does not prevent Defendants from
21 arguing that Sharp's First Amended Complaint should be dismissed with prejudice
22 for any other reason; and
- 23 4. By virtue of this Stipulation, the undersigned Defendants and the Stipulating
24 Plaintiffs do not waive any of their appeal rights to any issues addressed and
25 resolved in this Stipulation.
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27
28

1 Dated: December 2, 2013

Respectfully submitted,

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Pursuant to Local Rule 5-1(i)(3), the filer attests that concurrence in the filing of this document has been obtained from each of the above signatories.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

Hon. Samuel Conti
United States District Judge